

REMARKS

This application has been carefully reviewed in light of the Office Action dated April 13, 2009. Claims 2 to 4, 6, 7, 16 and 17 are in the application, with Claims 1, 5 and 8 to 15 having been canceled and with Claims 16 and 17 having been newly added. Claims 2, 16 and 17 are the independent claims. Reconsideration and further examination are respectfully requested.

Initially, a procedural matter is addressed. In particular, the Office Action appears to have examined the claims included with the originally-filed specification, rather than the amended set of claims submitted under PCT Article 34 during the International Stage. Nevertheless, and with a view towards expediting prosecution and issuance, Applicants respectfully request that the Article 34 amendments not be entered in the subject application. See MPEP § 1893.01. In that regard, this Amendment acts on the claims examined in the Office Action.

Turning to the merits of the Office Action, Applicants thank the Examiner for the indication that Claims 3 to 5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In keeping with this indication, independent Claim 2 has been rewritten to substantively incorporate the subject matter of Claim 5. Claim 5 has correspondingly been canceled. New independent Claims 16 and 17 are directed to a device and a computer-readable medium, respectively, substantially in accordance with the method of independent Claim 2. The remaining claims have been canceled, or have been amended in a manner not believed to affect their allowability. Consequently, all claims are believed to be allowable.

The specification was objected to for informalities which have been attended to by amendment as set out above. Reconsideration and withdrawal of the objections are respectfully requested.

Claims 13 to 15 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly being improper “single means” claims. Without conceding the correctness of this rejection, the rejection is believed to be obviated by the cancellation of Claims 13 to 15. Withdrawal of the rejection is therefore respectfully requested.

Claims 10 to 15 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter, and in particular for being directed to software per se. This rejection is traversed. With regard to Claims 10 to 12, the Office Action alleges that the claimed “carrier” is not limited to tangible media, based on paragraph [0142] in Applicants’ specification. However, Applicants’ paragraph [0142] is seen only to recite tangible storage media, and there is no requirement that a specification or claim explicitly exclude all possible non-tangible media. With regard to Claims 13 to 15, the Office Action alleges that the means recited by these claims can be interpreted as software, based on mentions of a “program” at paragraphs [0066] and [0104] of Applicants’ specification. However, Claims 13 to 15 are directed to a device, not a program, and the specification clearly recites examples of hardware corresponding to the claimed device.

Nevertheless, without conceding the correctness of the § 101 rejection, and solely in an effort to expedite prosecution, Claims 10 to 15 have been canceled. Accordingly, the rejection is believed to be obviated, and its withdrawal is respectfully requested.

Claims 1, 2 and 6 to 15 were rejected under 35 U.S.C. § 102(e) over U.S. Publication No. 2005/0228753 (Viger). In this regard, the claims have been amended in accordance with the Examiner's indication of allowable subject matter, as discussed above. The foregoing actions have been taken without prejudice or disclaimer of subject matter, and without conceding the correctness of any rejection, but rather solely for the purpose of expediting issuance. Accordingly, this should be viewed as a traversal of the rejection.

As an additional matter, Applicants intend to submit replacement drawings in order to address formal matters in the drawings of record.

No other matters being raised, the entire application is believed to be in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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